

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of OCTAVIAN EQUAN LEWIS,  
Minor.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

EDDIE KING,

Respondent-Appellant,

and

SHARLOTTE A. LEWIS,

Respondent.

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UNPUBLISHED  
December 4, 2003

No. 249080  
Kalamazoo Circuit Court  
Family Division  
LC No. 96-000037-NA

Before: Murray, P.J. and Gage and Kelly, JJ.

MEMORANDUM.

Respondent King appeals as of right from a circuit court order adjudicating him not to be the legal father of the minor child. We affirm.

The trial court held a putative father hearing pursuant to MCR 5.921(D)(2)<sup>1</sup> and determined that respondent had not shown that he was the natural father. We review the trial court's factual findings for clear error. MCR 2.613(C). "A finding of fact is clearly erroneous when, although there is evidence to support it, the reviewing court is left with a definite and firm conviction that a mistake has been made." *In re Forfeiture of \$19,250*, 209 Mich App 20, 29; 530 NW2d 759 (1995).

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<sup>1</sup> Effective May 1, 2003, the court rules governing proceedings regarding juveniles were amended and moved to new MCR subchapter 3.900. The provisions of MCR 5.921 are now found in MCR 3.921. In this opinion, we refer to the rules in effect at the time of the hearing.

Respondent's sole claim on appeal is that the court should have ordered blood tests before determining whether he was the child's legal father. We disagree. Pursuant to MCR 5.921(D)(2)(b), the court need only give a putative father additional time to establish legal paternity if it is first shown by a preponderance of the evidence that he is the child's natural father. Respondent testified that he believed himself to be the child's father because he was having sexual relations with the mother when the child was conceived. However, he did not know if he was the biological father because the mother may have been having sexual relations with other men during the same time period. In addition, the mother refused to acknowledge that the respondent was Octavian's natural father. At the conclusion of the hearing, counsel for respondent conceded that the evidence was insufficient to establish paternity. Reviewing the testimony as a whole, the evidence did not show that it was more likely than not that respondent was Octavian's natural father.

Affirmed.

/s/ Christopher M. Murray  
/s/ Hilda R. Gage  
/s/ Kirsten Frank Kelly